

§ 160A-459. Stormwater control.

(a) A city may adopt and enforce a stormwater control ordinance to protect water quality and control water quantity. A city may adopt a stormwater management ordinance pursuant to this Chapter, its charter, other applicable laws, or any combination of these powers.

(b) A federal, State, or local government project shall comply with the requirements of a city stormwater control ordinance unless the federal, State, or local government agency has a National Pollutant Discharge Elimination System (NPDES) stormwater permit that applies to the project. A city may take enforcement action to compel a State or local government agency to comply with a stormwater control ordinance that implements the National Pollutant Discharge Elimination System (NPDES) stormwater permit issued to the city. To the extent permitted by federal law, including Chapter 26 of Title 33 of the United States Code, a city may take enforcement action to compel a federal government agency to comply with a stormwater control ordinance.

(c) A city may implement illicit discharge detection and elimination controls, construction site stormwater runoff controls, and post-construction runoff controls through an ordinance or other regulatory mechanism to the extent allowable under State law.

(d) A city that holds a National Pollutant Discharge Elimination System (NPDES) permit issued pursuant to G.S. 143-214.7 may adopt an ordinance, applicable within its corporate limits and its planning jurisdiction, to establish the stormwater control program necessary for the city to comply with the permit. A city may adopt an ordinance that bans illicit discharges within its corporate limits and its planning jurisdiction. A city may adopt an ordinance, applicable within its corporate limits and its planning jurisdiction, that requires (i) deed restrictions and protective covenants to ensure that each project, including the stormwater management system, will be maintained so as to protect water quality and control water quantity and (ii) financial arrangements to ensure that adequate funds are available for the maintenance and replacement costs of the project.

(e) Unless the city requests the permit condition in its permit application, the Environmental Management Commission may not require as a condition of a National Pollutant Discharge Elimination System (NPDES) stormwater permit issued pursuant to G.S. 143-214.7 that a city implement the measure required by 40 Code of Federal Regulations § 122.34(b)(3)(1 July 2003 Edition) in its extraterritorial jurisdiction. (2006-246, s. 17(b).)